REMARKS

Applicant appreciates the courtesies extended to Applicant's represented, George Willinghan, during a telephone interview on September 25, 2006. The amendments and remarks provided herein are in compliance with the discussions held during that telephone conference. Claims 1, 3-6, 9-11, 18 and 19, as amended, remain in this application for the Examiner's review and consideration. Claim 1 has been amended to recite that the intersecting lines define distinct sections in the single sheet of material, that the folding sequence includes a first fold made across one of the interesting lines that defines two of the distinct sections and that overlaps those two distinct sections and that the folded shape includes two separate layers of wrap, the inner wrap layer and the outer wrap layer, each separately wrapped completely around a floral arrangement. Claim 9 has been amended to recite that translucent markings are disposed across one of the two distinct sections of the single sheet of material that becomes the inner wrap, that the other one of the distinct sections becomes the outer wrap and is a transparent area and the folding sequence overlaps the translucent area and the section containing the translucent markings. Claim 10 has been amended to recite that the translucent markings completely fill the two distinct section of the sheet of material defined by the scored line across which the first fold is made. Claim 18 has been amended to recite that the plurality of intersecting lines define distinct sections in the single sheet of material, that a first one of the distinct sections is a transparent area, that opaque marking fills a second one of the distinct sections, that the folding sequence includes a first fold across a first line that defines he first and second distinct sections and that overlaps the transparent areas and the translucent marking filled section to produce two layers from a single sheet of material, a transparent outer wrap layer and an opaque inner wrap layer, and subsequent folds that produce a folded shape comprising an opaque inner wrap surrounding a floral arrangement and surrounded by a transparent outer wrap. Support for this amendment can be found in the specification, claims and drawings as originally filed including, for example, Figs. 2-5, and the specification at page 6, lines 27-31. As these claim amendments do not introduce any new matter, their entry at this time is warranted.

Claims 18 and 19 were rejected under 35 U.S.C. § 102(a) and (e) as being anticipated by U.S. patent application publication no. 2002/0189165 to Weder for the reasons given in

paragraph 2 of the Office Action. It was asserted that Weder discloses a transparent single folded sheet of material comprising a plurality of scored intersecting lines defining a folding sequence overlapping and aligning sections with printed indicia. Application asserts that this rejection has been overcome for the reasons that follow.

Weder is directed to a flower pot cover that is formed of a generally square-shaped, flexible sheet of material and that includes a substantially closed, planar bottom, a sidewall, and open upper end and an object opening. The base portion includes overlapping folds and panel sections which are substantially free of folds, creases and score lines. The cover is formed over a folding jig. The materials for the sheet of material may be varied and the decorative markings may be varied but are spaced on the sheet of material so as to align across the overlapping folds without distortion.

By contrast, the present invention as currently recited in claims 18 and 19 is directed to a single folded sheet of material including a plurality of scored intersecting lines defining distinct sections in the single sheet of material and a distinct folding sequence. A first one of the distinct sections comprises a transparent area, and opaque markings fill a second one of the distinct sections of the single sheet of material. The folding sequence includes a first fold across a first line that defines the first and section distinct sections and that overlaps the transparent area and the opaque marking filled section to form two layers, a transparent outer wrap layer and an opaque inner wrap layer. The inner wrap layer, i.e., the opaque layer, surrounds a floral arrangement, and the outer wrap layer, i.e., the transparent layer, surrounds the inner wrap layer, and therefore the floral arrangement. The folded shaped is of an opaque inner wrap and a transparent outer wrap each separately wrapped completely around a floral arrangement. Weder fails to disclose or teach a single sheet of material that forms a translucent inner wrap surrounding a floral arrangement and surrounded by a transparent outer wrap. As defined in The American heritage Dictionary, a copy of which is enclosed, surround means to extend on all sides of simultaneously or to encircle. Weder lacks two layers created from a single folded sheet of material that each layers surrounds a floral arrangement and that the outer transparent wrap surrounds the inner opaque wrap. In addition each layer is separately and completely wrapped around the floral arrangement. The overlapping folds of Weder only extend partially around

flower pot. Even in the Office Action in paragraph 5, it was admitted that Weder does not directly disclose the appearance of a layer surrounding another. Weder also fails to disclose a first section comprising a transparent area, an opaque marking filling a second distinct section and a line defining the first and second sections across which the sheet of material is folded to create two separate layers from a single sheet of material.

Although varieties of materials and variations in the decorations are disclosed, Weder does not provide specifics regarding how the variations can be implemented. In addition, Weder does not teach that the decorations fill any section defined by lines or scored lines. In fact, the disclosure of Weder teaches a different result. In Weder, the goal is to eliminate distortions in the decorations that result from folding a material containing the decorations around a flower pot. In addition, alignment is provided in Weder for decorations that pass from an overlapping fold to a base portion in the folded state as illustrated in Figs. 3, 4 and 6. Placing transparent sheets over opaque decorations could actually increase the potential for distortions as overlapping decorations (Fig. 4) or wrapping that is overlapped by the decoration would be visible. Based on the figures, it appears that an opaque outer material that completely obscures inner markings would be preferred. In addition, Weder does not disclose a single sheet of material that contains a first fold across a line that defines two sections and that overlaps the transparent area and an opaque marking filled section, for example a color filled section, to form two layers from the single sheet of material, and subsequent folds that position the two layers as separate inner and outer wraps that both surround a floral arrangement.

Regarding the recitation in claim 18 of a plurality of scored intersecting lines, the disclosure of Weder is at best unclear and could possibly be interpreted to teach that the use of scored lines is not desired. As stated in paragraph 20 of Weder, the panel sections are substantially free of folds, creases and score lines as these would create distortions in the decorations. Figs. 3, 4 and 6 of Weder show dashed lines; however, no call out numbers are associated with these lines, and there is no disclosure regarding whether or not the lines are scored. Therefore, Weder fails to teach or disclose all of the elements of the present invention as currently recited in claims 18 and 19, and Applicant respectfully requests that this rejection be reconsidered and withdrawn.

Claims 1, 3-6, 9-11 and 18-19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent no. 6,786,003 to Gilbert for the reasons given in paragraph 4 of the Office Action. It was asserted that Gilbert discloses a sheet of material that has intersecting score lines 150, 152, 188, 182, etc. defining a folding sequence (i.e. the sheet is wrapped about itself aligning the various lines; see figures 8-12) corresponding to a pre-determined shape (conical) with a plurality of peaked sections 132 along said lines for the wrap which comprises an overlapping portion capable of being used as a flower sleeve an appearance of being wrapped by hand. In addition, it was asserted that Gilbert discloses an inner translucent wrap surrounded by outer transparent wrap (see column 4, lines 35+) and that Gilbert provides gussets in a folded sheet (column 4, lines 17+) and that this provides a predetermined folded shape with multiple layers and a plurality of peaks. It was said that it would have been obvious to one of ordinary skill in the art to modify the invention of Gilbert to comprise a single partially transparent layer and folding over itself before performing the wrapping sequence to provide a multilayered sleeve when folded. Applicant asserts that this rejection has been overcome for the reasons that follow.

Gilbert is directed to a multi-layer sleeve made from two inner layers and two outer layers (col. 3, lines 60-61). All the layers of the sleeve are fed from rolls into a machine that uses hot dies to cut through the layers and weld the sleeve edges together (col. 2, lines 9-12). These edges are designated as 26 and 28 in Fig. 3. A gusset can be used to close the bottom edge of the sleeve (col. 4, lines 20-21). This gusset is formed using parallel fold lines (col. 8, lines 43-44). In general, Gilbert is directed to the use of layers of different materials joined at the seams so as to appear as independent layers (col. 1, lines 51-53). The sleeve of Gilbert requires at least two and preferably four separate and distinct sheets of material.

By contrast as currently recited in claims 1 and 18, the independent claims, the pre-folded flower wrap of the present invention includes a single folded sheet. In claim 1, the single sheet is a single layer. Gilbert does not use a single sheet to produce a multi-layered appearance. In addition, the sleeve of Gilbert is not a folded sheet, but a multi-layered sleeve made from rolls of four separate sheets of material that are welded together along the edges (Fig. 16). Gilbert does not disclose the use of a single, single layered sheet. Moreover with respect to claim 1, the single folded sheet of the present invention is a rectangular sheet. There is no disclosure in Gilbert

regarding the use of a single folded rectangular sheet.

In addition as currently recited in claim 1, the pre-folded flower wrap of the present invention includes a plurality of intersecting lines defining distinct sections in the single sheet of material and a distinct folding sequence that includes a first fold across a scored line that defines two of the distinct sections and that overlaps the two distinct sections of the single sheet of material to create two layers from the single sheet of material and subsequent folds that position one layer as an inner wrap and one layer as an outer wrap such that the outer wrap surrounds the inner wrap and that form the single sheet of material into the pre-determined folded shape that includes an overlapping portion, a plurality of peaked sections comprising corners of the rectangular sheet and multiple layers that provide an appearance of two separate layers of flower wrap each separately wrapped completely around a floral arrangement such that both layers surround the floral arrangement. In claim 18, a first one of the distinct sections comprises a transparent area and an opaque marking, e.g., a color, fills a second distinct section. Folding across the first line forms two layers from the single sheet, an opaque layer and a transparent layer. Subsequent folds form the opaque marking filled section as an inner wrap surrounding a floral arrangement and the transparent area as a transparent outer wrap surrounding the inner wrap. Claims 9 and 10 depend from claim 1 and recited translucent markings disposed in or filling one of the two sections defined by the first scored line and the other second defining a transparent area. The result of the folding sequence is a translucent inner wrap layer surrounding a floral wrap and a transparent outer wrap surrounding the translucent inner wrap. The folded shaped having two layers each wrapped separately completely around a floral arrangement.

In applying the cited prior art against the claims as presently recited, all words in the claim must be considered in judging the patentability of that claim against the prior art. MPEP 2173.06 citing *In re Wilson*, 424 F.2d 1382 (CCPA 1970). Although Gilbert may appear to disclose certain aspects of the present invention as currently recited in the claims, Gilbert does not disclose, teach o render obvious all of the recitations of the claims and how the structures of the present invention are interrelated. In general, Gilbert is not a wrapped product, but is in fact a flower sleeve. Application of the disclosure of a flower sleeve against a wrapped product made form a single folded sheet of material is a stretch. The product of Gilbert has the typical funnel or

Y-shaped appearance of a flower sleeve with the associated aesthetic appearance. There is no teaching or disclosure in Gilbert regarding any folding sequence having a first fold across line that defines two distinct sections and that overlaps the two distinct sections to form two layers and subsequent folds that position these layers as inner and outer wraps that both surround, that is are each wrapped completely around, a floral arrangement. It is the folding sequence and these folds that form the folded shape including a plurality of peak sections containing the corners of the rectangular sheet and an appearance of an outer layer surrounding an inner layer. The sleeve of Gilbert is formed form multiple separate sheets of material that are sealed along the side edges. The only disclosure in Gilbert regarding folding is the use of folds to form the gussets that are used to close the bottom of the sleeve of Gilbert. These folds, however, are not formed from intersecting scored lines as recited in claim 1. In addition, these folds do not produce peaked sections containing the corners of a rectangular sheet. Moreover, the folds form a gusseted closure and not inner and outer wrap layers wherein the outer wrap surrounds the inner wrap. It appears that the gusset is used to form an expandable closed bottom for the sleeve of Gilbert. Additional and separate layers of material are still used (*see,* Fig. 22 and specification at col. 8, lines 31-49) to create the multi-layered appearance of the sleeve disclosed in Gilbert.

With regard to the assertion of intersecting score lines 150, 152, 188, 182, etc. defining a folding sequence with a plurality of peaked sections 132, Applicant notes that these lines as explained in the specification of Gilbert relate to the top edges of the inner and outer walls (150, 152) of the various layers, the top edge of the inner layer (188) and a T-shaped tear line (182). In Gilbert, hidden lines are shown as dashed lines and perforations are shown with alternating long and short dashes (col. 2, lines 33-35). Moreover, the top edge (132) of the inner layers of Gilbert forms a zigzag shape. This zigzag shape is not the peaked sections containing corners of the single folded rectangular sheet resulting form the folding sequence that includes the first fold and subsequent folds of the present invention as currently recited. The zigzag top edge (132) of Gilbert is the result of perforations or pre-cuts in the inner layers and not the results of folding a single sheet. Therefore, Gilbert neither teaches nor discloses all of the recitations of the present invention as expressed in all of the words of claim 1.

Regarding claim 18, the product of Gilbert is a sleeve and not a pre-folded flower wrap.

There is no disclosure or teaching in Gilbert of a single sheet of material having a first section comprising a transparent area and opaque marking filling a second section and a folding sequence that overlaps and aligns these sections to produce the pre-determined folded shape having two layers each separately wrapped completely around a floral arrangement. Gilbert uses multiple, independent layers that are bonded or heat sealed together. Each one of the multiple, independent layers of Gilbert can be varied such that the outer layers are transparent or translucent and the inner layers are formed of an opaque material. The layers may also have images or patterns printed on them. However, there is no disclosure of a single sheet that contains a first section comprising a transparent area and an opaque marking filling a second area of the same sheet to produce the appearance of two separate layers of wrap from a single layer of material as recited in claim 18. The flower sleeve of Gilbert actually uses multiple, separate layers of material to produce the appearance of a flower sleeve having multiple, separate layers of material.

In making determinations regarding obviousness, the art as a whole must be considered including portions that lead away from the claimed invention and statements that teach away from or discredit the claimed invention. In addition, the proposed modification to the prior art required for a finding of obviousness cannot render the prior art unsatisfactory for its intended use. It was asserted that Gilbert recognizes a common alternate as a single substrate that is partially transparent. This language appears in the background section of Gilbert. The background section goes on to state:

> Heretofore most sleeves have been manufactured of a single material. Specifically, while different manufacturers have used different materials, each sleeve has generally been formed from two layers of the same material. Although some may have suggested that sleeves might be made of laminated materials, sleeves have not heretofore been commercialized that are made with layers of different materials joined at the seams so as to appear as independent layers.(col. 1, lines 46-53)(emphasis added)

Clearly, the intent of Gilbert was to use and to produce a multi-layered product. By stating that most sleeves have been manufactured of a single material, Gilbert teaches way from and

discredits the use of a single layer of material. In addition, since Gilbert recognizes the need for multi-layered products and then discloses a multilayered sleeve, the use of a single layer renders Gilbert unsatisfactory for its intended use.

Secondary evidence of patentability is provided in the enclosed 37 C.F.R. § 1.132 declaration of Steven Tchira. As stated, it is the claimed features of the present invention that overcame long standing and unresolved needs in the art and produced the strong commercial success of products embodying the present invention as claimed. Flower sleeves, which are understood by one of skill in the art to be a product having a funnel like appearance with a mass produced aesthetic, were the product of choice of floral distributors. The flower sleeve could be used to fill large orders rapidly while minimizing the labor force and materials. Floral orders due to the nature of the product are inherently time sensitive, and holidays such as Mother's Day, when large numbers of floral arrangements are required on the same day, create pressure to deliver a large number of wrapped floral arrangements simultaneously. Flower sleeves, due to the ease of placing floral arrangements within the sleeve, where the cover of choice. However, the flower sleeve produces a less than desirable aesthetic appearance. In addition, having a person wrap each floral arrangement with two or more separate layers of material was costly and time prohibitive. The flower wrap of the present invention solved this problem with a wrapped product having multiple overlapping layers, for example transparent layers over either translucent or opaque layers, and other features that provided the improved and desired aesthetics of a hand-wrapped product. However, the use of a single pre-folded sheet minimized labor and allowed the flower wrapped of the present invention to be used like a flower sleeve to meet large time-sensitive orders. The flower wraps of the present invention where immediately recognized by floral distributors as meeting their needs, leading to the sale of millions of these flower wraps and placement of the flower wraps of the present invention in large retailers such as Safeway and Wal Mart. Therefore, the structure of the present invention as currently recited in the claims produced the commercial success of the flower products embodying the claims of the present application. For these reasons, the claims are not rendered obvious by reference to Gilbert, and Applicant respectfully requests that the present rejection be reconsidered and withdrawn.

Claim 1, 3-6 and 9-11 were rejected under 35 U.S.C. 103(a) as being unpatentable over

Weder for the reasons given in paragraph 5 of the Office Action. It was asserted that even though Weder does not disclose a single layer or a plurality of layers, it would have been obvious to use a single sheet folded on itself to have a plurality of layers. Applicant asserts that this rejection has been overcome for the reasons that follow.

As was stated above, Weder is directed to a flower pot cover that is formed of a generally square-shaped, flexible sheet of material and that includes a substantially closed, planar bottom, a sidewall, and open upper end and an object opening. The base portion includes overlapping folds and panel sections which are substantially free of folds, creases and score lines. The cover is formed over a folding jig. The materials for the sheet of material may be varied and the decorative markings may be varied but are spaced on the sheet of material so as to align across the overlapping folds without distortion. As was discussed above, Weder fails to disclose or render obvious all of the recitation of the present invention including two separate layers created from a single folded sheet such that each layer surrounds a floral arrangement. In addition, Weder fails to disclose the folding sequence that includes a first fold across one of a plurality of scored intersecting lines that defines the two distinct sections that become the two separate layers. Weder is directed to preventing distortions in decorations on a product having overlapping folds or pleats, none of which form two layers that surround a floral arrangement. Further overlapping the layers of Weder to form such overlapping layers would be against a teaching to eliminate distortions created by the overlaps. If anything, Weder would suggest less not more overlapping. In addition, it is the overlapping layers created from a single sheet that solved the long felt need in the industry and produced the commercial success of products embodying the present invention. Products embodying Weder or modifications of the disclosure of Weder were not adopted to overcome the needs of floral distributors for improved aesthetics with flower sleeve functionality and did not inhibit or prevent the commercial success of products embodying the present invention. The products disclosed in Weder do not exhibit the desired improved aesthetics over flower sleeves. Therefore, the present invention is not rendered obvious by reference to Weder, and Applicant respectfully requests that this rejection be reconsidered and withdrawn.

Applicant asserts that all claims are now in condition for allowance, early notification of which is respectfully requested. A petition for a two month extension of time is submitted herewith along with provisions for the payment of the prescribed fee. No additional fees are believed due for the submission of this amendment since the total number of claims as-amended is less than 20 and the total number of independent claims is less than 3.

Respectfully submitted,

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